

STATE PERSONNEL BOARD CALENDAR



MAY 17, 2005

SACRAMENTO, CALIFORNIA

State of California

Memorandum

DATE: May 6, 2005

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD - Appeals Division

SUBJECT: Notice and Agenda for the **May 17, 2005** meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on May 17, 2005 at the offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the May 17, 2005 meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:
<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.



P. Fong
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

MID-MONTH BOARD MEETING – MAY 17, 2005

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID-MONTH BOARD MEETING AGENDA³

MAY 17, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**
- 3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**
- 4. REPORT OF THE CHIEF COUNSEL - Elise Rose**
- 5. NEW BUSINESS**
- 6. REPORT ON LEGISLATION - Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(9:30 a.m. – 10:30 a.m.)

- 7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

- 8. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board
Sacramento Superior Court No. 05CS00374

The Copley Press, Inc. v. San Diego Superior Court
California Supreme Court No. S128603

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:30 a.m. – onwards)

**11. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
JUNE 7, 2005, IN SACRAMENTO, CALIFORNIA**

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES

13. EVIDENTIARY CASES - (See Case Listing on Pages 7-12)

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Agenda Page 18)**

15. NON-EVIDENTIARY CASES - (See Case Listing on Pages 12-16)

16. NON-HEARING CALENDAR

Proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

BUREAU CHIEF, DEPARTMENTAL SERVICES BUREAU

The Department of Justice proposes to allocate the above position to the CEA category on a permanent basis. SPB approved this allocation for a limited term of twenty-four months effective June 26, 2003. The Bureau Chief, Departmental Services Bureau consolidates and centralizes the information technology services and formulates departmental policies impacting business operations and personal computing needs for all employees and clients.

BUREAU CHIEF, ADMINISTRATIVE SERVICES BUREAU

The Commission on Peace Officer Standards and Training proposes to allocate the above position to the CEA category. The Bureau Chief, Administrative Services Bureau has full management and supervisory responsibility for the Administrative Services Bureau and participates in and helps form conclusions and resolutions to all management and policy actions that are taken under consideration by Post management.

DIRECTOR, ACCOUNTING DIVISION

The California State Teacher's Retirement System proposes to allocate the above position to the CEA category. The Accounting Director is responsible for leading and directing the development and administration of major department-wide policies pursuant to the fiscal and accounting considerations of the pension system's plan and programs.

CHIEF, TECHNOLOGY SERVICES DIVISION

The Board of Equalization proposes significant changes to above existing CEA allocation. The Chief, Technology Services Division is responsible for managing and directing the Board of Equalization's Information Technology program.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

DEPUTY DIRECTOR, COMPLIANCE DIVISION

The California Gambling Control Commission has withdrawn their request to establish the above position to the CEA category effective April 15, 2005.

ASSISTANT DIVISION CHIEF, MEDI-CAL MANAGED CARE DIVISION

The Department of Health Service's request to establish the above position to the CEA category has been approved effective March 20, 2005.

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

22. BOARD ACTIONS - (See Agenda - Page 17)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

1) **DARYL STONE, CASE NO. 04-0279A**

Appeal from dismissal

Classification: Police Officer I

Department: Department of Developmental Services

ALJ's Proposed Decision rejected by the Board on February 8, 2005

Transcript prepared

Oral argument May 3, 2005

Case ready for decision by FULL Board

2) **TIMOTHY PORT, CASE NO. 04-2372**

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections

Case taken under submission at the May 3, 2005 Board meeting.

Case to be considered at the June 7, 2005 Board meeting.

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) LANA G. ANDREWS, CASE NO. 04-2797**
Appeal from 20 workdays suspension
Classification: Officer
Department: Department of California Highway Patrol
- (2) ALADDIN (ALEX) DAOUK, CASE NO. 03-2893**
Appeal from rejection during probationary period
Classification: Supervising Transportation Engineer
Department: Department of Transportation
- (3) ERNESTINE FORREST, CASE NO. 04-0409**
Appeal from dismissal
Classification: Corporation Counsel
Department: Department of Corporations
- (4) INEZ GUERRA, CASE NO. 03-3345**
Appeal from 30 days suspension
Classification: Facility Captain
Department: Department of Corrections
- (5) LONNIE HAIRSTON, CASE NO. 05-0018**
Appeal from 30 days suspension
Classification: Parole Agent I
Department: Department of Corrections

- (6) **ALICIA HAYDEN, CASE NO. 04-2251**
Appeal from five percent reduction in salary for six months
Classification: Correctional Officer
Department: Department of Corrections
- (7) **JOSEPH MARTINEZ, CASE NO. 04-2690**
Appeal from dismissal
Classification: Hospital Police Officer
Department: Department of Mental Health
- (8) **PHYLISS McNEAL, CASE NO. 04-2273**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent II, Adult Parole
Department: Department of Corrections
- (9) **LYNETTE RHEA, CASE NO. 04-1894E**
Appeal from denial of discrimination and retaliation complaint
Classification: Assistant Caltrans Administrator
Department: Department of Transportation
- (10) **NATHANIEL RICO, CASE NO. 05-0082**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

- (11) **ALBERT CONTRERAS, CASE NO. 05-0534**
Appeal from three days suspension
Classification: Officer, California Highway Patrol
Department: California Highway Patrol

E. PETITIONS FOR REHEARING

- (1) **JONADAB HERRERA, CASE NO. 04-2246P**
Appeal from five working days suspension
Classification: Custodian
Department: California State University, San Jose
Petition for rehearing filed by appellant
to be granted or denied.

The Proposed Decision sustaining the five working days suspension was adopted by the Board on February 8-9, 2005.

- (2) **VIRGINIA PARKER, CASE NO. 03-0325AP**
Appeal from demotion
Classification: Correctional Lieutenant
Department: Department of Corrections
Petition for rehearing filed by appellant
to be granted or denied.

Respondent did not serve appellant with the notice of adverse action within the time limits set by the Government Code.

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

NONE

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) PATRICK BARBER, CASE NO. 04-0279

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision adopted November 3, 2004

Modifying dismissal to 45-calendar day suspension

Petition for Rehearing granted February 8-9, 2005

Transcripts prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

(2) JON CHASE, CASE NO. 04-0392

Appeal from 30 working days suspension

Classification: Associate Management Auditor

Department: Employment Development Department

Proposed decision rejected April 19, 2005

Pending Transcript

(3) FRANK GARCIA, CASE NO. 04-0092P

Appeal from dismissal

Classification: Chief Engineer I

Department: Department of Corrections

Petition for rehearing granted May 3, 2005

Pending transcript

(4) CHAD LOOK, CASE NO. 04-1789

Appeal from 60 working days suspension

Classification: Correctional Officer

Department: Department of Corrections

Proposed decision rejected January 11, 2005

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

(5) JAMES MCAULEY, CASE NO. 04-1856

Appeal from dismissal

Classification: Associate Transportation Engineer, Caltrans
(Registered)

Department: Department of Transportation

Proposed decision rejected March 8-9, 2005

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

(6) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation
and from constructive medical termination

Classification: Office Technician (General)

Department: Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcript

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

(1) TORY AXEL, CASE NO. 04-1497

Classification: Correctional Officer

Department: Corrections

Issue: Suitability.

- (2) **SAMUEL BERRY, CASE NO. 04-0295**
Classification: State Park Ranger Cadet - Lifeguard
Department: Parks and Recreation
Issue: Suitability; negative driving record, failure to comply with legal obligations, negative employment record, and late registration with the Selective Service.
- (3) **DAVID BUTLER, CASE NO. 04-1481**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability.
- (4) **DIALLO CASTILLE, CASE NO. 04-0671**
Classification: Correctional Officer
Department: Department of Corrections
Issue: Suitability; failure to comply with legal obligations.
- (5) **JARED DEAVER, CASE NO. 04-2101**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; illegal drug use.
- (6) **JOSHUA DURAN, CASE NO. 04-0770**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and furnishing inaccurate information.
- (7) **KIMBERLY EDWARDS, CASE NO. 04-1830**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and negative law enforcement contacts.
- (8) **RODNEY GILLINS, CASE NO. 04-1309**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
- (9) **NICHOLAS MEGAZZI, CASE NO. 04-1948**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and negative employment record.

- (10) **RICHARD OTTO, CASE NO. 04-0810**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information during the selection process.
- (11) **ROBERTO RAMIREZ, CASE NO. 04-1659**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability, omitted pertinent information and negative law enforcement contacts.
- (12) **JORGE RODRIGUEZ, CASE NO. 04-1594**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and gang activity.
- (13) **ROSA RODRIGUEZ, CASE NO. 04-1592**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; active warrant.
- (14) **CHARLES STEPHENS, CASE NO. 04-2193**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative employment record, provided inaccurate information during the selection process.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

- (1) **JOHN GALLARDO, CASE NO. 04-2116**
Classification: Hospital Peace Officer
Department: California Department of Mental Health
Issue: Does sufficient evidence exist to support the psychological disqualification of the appellant?

(2) KARI LITTON, CASE NO. 04-1566

Classification: Correctional Officer

Department: Corrections

Issue: The appellant was medically disqualified because she did not meet the corrected vision requirements of the Correctional Officer position.

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(1) DEBBIE HUDSON, CASE NO. 04-1260

Classification: Associate Governmental Program Analyst

Department: Prison Industry Authority

Issue: The charging party requests charges be filed against the charged parties for violations of Government Code section 19572(w).

(2) MICHAEL STONUM, CASE NO. 04-0957

Classification: Battalion Chief (Non-Supervisory)

Department: Department of Forestry and Fire Protection

Issue: The charging party requests to file charges against two supervisors at his department

PETITIONS FOR REHEARING CASES

NONE

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. HEARING - PSC #04-06

Appeal of the California Regional Water Quality Control Board (RWQCB) from the Executive Officer's October 27, 2004 Disapproval of a Contract with the City of Glendale (Glendale) Reviewed at the Request of the California Association of Professional Scientists (CAPS) (Hearing held April 6, 2005.)

7. HEARING - PSC #05-01

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment from the Executive Officer's December 28, 2004 Approval of a Contract for Legal Services between the California Department of Health Services and Covington & Burling (Hearing held May 3, 2005.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *



1

(Cal. 5/17/05)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report. I can be reached at (916) 653-0453.

A handwritten signature in cursive script that reads 'Sherry Hicks'.

Sherry Hicks
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2005-06 SESSION**

**Status as of
May 5, 2005**



ASSEMBLY/SENATE BILLS
(Tracking)

BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 38 (Tran)	OPPOSE	AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.	Assembly Business and Professions Committee. Died in Committee
AB 47 (Cohn)		This bill would prohibit, except under specified circumstances, the Department of General Services from authorizing the Department of Corrections to enter into contracts for medical care services without seeking competitive bids for those contracts	Assembly Appropriations Committee. Suspense File
AB 94 (Haynes)	NEUTRAL	Among other things, this bill would require various state agencies to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 fiscal years no later than January 15, 2006, and for each subsequent fiscal year by January 15 of the following year.	Assembly Business and Professions Committee

AB 124 (Dymally)	SUPPORT	This bill would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in <i>Connerly v. State Personnel Board</i> , and re-title Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would strengthen equal employment opportunity requirements.	In Senate. Not assigned to a Committee
AB 194 (Dymally)		The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. This bill would remove the requirement that the legislative body be allowed to cure or correct an alleged violation prior to commencement of a legal action and would remove provisions that preclude specified actions from being determined to be null and void.	Re-referred to Assembly Committee on Local Government
AB 195 (Dymally)		This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs, including expert witness fees.	Assembly Appropriations Committee. Suspense File.
AB 219 (Nakanishi)		This bill would require all state departments, commissions, or other agencies to submit an electronic copy of each publication issued to the State Library. It would require the State Library to create and maintain a Web site that includes a monthly or quarterly list of each state publication issued during the immediately preceding month or quarter and that provides access to an electronic copy of each publication. It would provide that if a copy of a state publication is available on the State Library Web site, it shall be deemed distributed in compliance with specified redistribution requirements.	Assembly Appropriations Committee (Suspense File)
AB 271 (BLAKESLEE)	OPPOSE	This bill would require that any person appointed to a scientist class in state service possess a four-year degree in a scientific discipline from an accredited university.	Assembly Inactive File

AB 277 (Mountjoy)	SUPPORT	This bill also would authorize the Board of Administration of the Public Employees' Retirement System to hold closed sessions when considering matters relating to the development of rates and competitive strategy for long-term care insurance plans.	Assembly Consent Calendar
AB 297 (Yee)	SUPPORT	This bill would specify that a current patient of a facility operated by the State Department of Mental Health may not file these charges against a state employee.	From Consent Calendar in Assembly Appropriations to Second Reading File
AB 529 (Goldberg)		This bill would authorize an employee who alleges that the trustees have not complied with this requirement with respect to his or her situation to request a hearing by the State Personnel Board. The bill would authorize the State Personnel Board to render a decision to determine whether the trustees have complied with the pertinent requirements in that instance. This bill contains other related provisions and other existing laws.	Assembly Appropriations Committee. (Suspense File)
AB 708 (Karnette)		This bill would require the California State University to employ an independent investigator on all complaints. This bill contains other existing laws.	Assembly Appropriations Committee (Suspense File)
AB 775 (Yee)	SUPPORT	This bill would prohibit any state or local governmental agency, or any public or private agency, organization, entity, or program that receives state funding, from using any child, or permitting any child to be used, as an interpreter, as defined, in any hospital, clinic, or physician office in the context of diagnosis and treatment, except as specified. The bill would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined, in this manner. This bill contains other related provisions and other existing laws.	Assembly Appropriations Committee (Suspense File)

AB 836 (Huff)		Existing law requires every state agency and court for which an appropriation is made to submit to the Department of Finance for approval, a complete and detailed budget setting forth all proposed expenditures and estimated revenues for the ensuring fiscal year. This bill would require that these budgets utilize a zero-based budget method, as defined.	Assembly Budget Committee
AB 884 (Baca)		This bill would prohibit a state agency, including the California State University, from employing a primary care physician as an independent contractor when there is an unfilled, full-time primary care physician position available within the state agency, unless the state agency is unable to do so after a good faith effort.	Assembly Appropriations Committee (Suspense File)
AB 1066 (Horton, Jerome)		This bill would amend existing law to provide that a state agency: (1) may not pay a contractor under a personal services contract until the State Personnel Board (SPB) had first approved that contract; (2) may not seek to enter into a contract with a contractor if SPB had disapproved a prior contract with that same contractor for the same services within the preceding 12 months; and (3) must give 10 days prior notice to Bargaining Unit 12 of any contract the agency intends to enter into that may affect that bargaining unit.	Assembly Appropriations Committee (Suspense File)
SB 165 (Speier)		This bill would create the Office of the Special Counsel (OSC) as a separate branch of the State Personnel Board (Board), to protect state employees and applicants for state employment who have been retaliated against as a result of their having made protected disclosures under the Whistleblower Protection Act (Government Code section 8547 <i>et seq.</i>).	Assembly Appropriations Committee
SB 606 (Kehoe)		This bill would authorize the State Personnel Board to create a classification for full-time lifeguards that does not require completion of the basic training course established by the Commission on Peace Officers Standards and Training.	Senate Appropriations Committee (Suspense File)

SB 737 (Romero)		This bill would abolish those departments and boards, and instead create the Department of Corrections and Rehabilitation, which would consist of the Division of Adult Operations, the Division of Adult Programs, the Division of Juvenile Justice, the Corrections Standards Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board. The department would be headed by the Secretary of the Department of Corrections and Rehabilitation, who would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint, an undersecretary, and would require the Governor to appoint 3 chief deputy secretaries, and an assistant secretary for health care policy, all subject to Senate confirmation. It would also authorize the Governor to appoint assistant secretaries for victim and survivor rights and services and for correctional safety. This bill contains other related provisions and other existing laws.	To Enrollment
SB 1083 (Ackerman)		This bill would provide that the California Medical Assistance Commission shall be reimbursed at the annual salary of members of the State Personnel Board.	Senate Committee on Health
SB 1095 (Chesbro)		This bill would authorize the Director of the California Conservation Corps to make limited-term (LT) appointments, beyond the current 2 years, to up to 4 years without SPB approval.	Senate Appropriations Committee